

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed December 29, 2004. At the time of the Office Action, Claims 1-22 were pending in the Application. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Consideration of Information Disclosure Statement

Applicant submits an Information Disclosure Statement (IDS) with this Response. Applicant respectfully requests the Examiner to review this IDS and to formally indicate that these materials have been considered in the context of the pending prosecution. Applicant suggests the Examiner use a PTO-1449 to provide written notification to this effect.

Double Patenting Rejection

Claims 1, 3-7, 9-10, and 12-21 of the present application are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3-8 of U.S. Patent No. 6,650,641. Applicant has submitted a Terminal Disclaimer, which is appended to this Response, in order to overcome the nonstatutory double patenting rejection. Applicant respectfully requests that the rejection be withdrawn.

It is imperative to note that filing of the Terminal Disclaimer should not be construed as an agreement with, or an acquiescence to, the propriety thereof. Applicant has only filed such an item in order to advance prosecution in this case. Applicant reserves the right to comment on the appropriateness of the Terminal Disclaimer at a future time, should Applicant deem it appropriate to do so.

Allowable Subject Matter

Applicant also notes with appreciation the Examiner's allowance of Claims 2, 8, 11, and 22 and the Examiner's indication that the subject matter of these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims (See Pending Office Action, p. 3). However, because of the submission of the Terminal Disclaimer (as detailed immediately above), these claims are now allowable.

Therefore, Applicant earnestly believes all of the pending claims are allowable in their current form. This evaluation was based on the Examiner's indications provided in the current Office Action. Notice of this allowability is respectfully requested.

Applicant also wishes to express his gratitude to Examiner Abelson for his professionalism and his diligence involving the current endeavor, as well as previous matters presented to the Examiner. Throughout the prosecution of this case, and other related cases, Examiner Abelson has been exceptionally cooperative.

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CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant submits herewith a check in the amount of \$110.00 to cover the cost of the terminal disclaimer fee. Applicant also submits herewith a check in the amount of \$180.00 to cover the cost of the IDS filing fee. However, if this is not the case, the Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas Frame at 214.953.6675.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorneys for Applicant

  
Thomas Frame  
Reg. No. 47,232

Date: February 1, 2005

Customer No. **05073**